

AMENDED IN SENATE APRIL 22, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 495

Introduced by Senator Benoit

February 26, 2009

~~An act to add Section 53121 to the Government Code, relating to public safety.~~ *An act to add Article 5 (commencing with Section 2898) to Chapter 10 of Part 2 of Division 1 of the Public Utilities Code, relating to telecommunications.*

LEGISLATIVE COUNSEL'S DIGEST

SB 495, as amended, Benoit. ~~Public safety.~~ *Mobile telephony service providers: release of call location information to law enforcement agencies.*

Under existing law, the Federal Communications Commission licenses and partially regulates providers of commercial mobile radio service, including providers of cellular radiotelephone service (cellular), broadband Personal Communications Services (PCS), and digital Specialized Mobile Radio (SMR) services (collectively, mobile telephony service providers). Under existing law, no state or local government may regulate the entry of, or the rates charged by, any commercial mobile radio service, but a state or local government is generally not prohibited from regulating the other terms and conditions of commercial mobile radio service. Existing law authorizes the Public Utilities Commission to regulate telecommunications services and rates of telephone corporations, except to the extent regulation of commercial mobile radio service is preempted by federal regulation, and to require telephone corporations to provide certain customer services.

Existing provisions of the Warren-911 Emergency Assistance Act, establishes the number “911” as the primary emergency telephone number for use in the state and requires the providing of enhanced service capable of selective routing, automatic number identification, or automatic location identification. Existing law requires that a provider of commercial mobile radio service, as defined, provide access for end users of that service to the local “911” emergency telephone systems, and that user validation not be required. Existing law authorizes a “911” call from a commercial mobile radio service telecommunications device to be routed to a public safety answering point other than the Department of the California Highway Patrol under certain circumstances.

~~This bill would authorize a law enforcement agency to request a telecommunications service provider, as defined, to provide customer information, including the name of the customer, location of a wireless device, and any additional telephone numbers of the customer, when (1) exigent circumstances exist, (2) the law enforcement agency has a court order for the customer information, or (3) the consumer or subscriber lawfully consents to disclosure. The bill would require the telecommunications service provider, upon being provided the basis for a request pursuant to one of these 3 circumstances, to provide the law enforcement agency with the requested customer information and would provide that a telecommunications service provider, and its officers or employees, are not subject to liability when it acts in a reasonable manner upon receiving the request and that the good faith compliance with the request is a complete defense against any civil action brought for wrongful disclosure of customer information. The bill would require a telecommunications service provider to maintain a record of all requests for customer information from law enforcement agencies for not less than 2 years and would prohibit a telecommunications service provider from imposing any fee or charge for compliance with these requirements.~~

This bill would require a mobile telephony services provider to provide call location information relative to a telecommunications device of a user to a requesting law enforcement agency, in order for the law enforcement agency to respond to a call for emergency services or in an emergency situation that involves the risk of death or serious physical harm. The bill would provide that no cause of action shall lie in any court against a mobile telephony services provider, its officers, employees, or agents, for providing call location information relative

to a telecommunications device of a user in good faith pursuant to the bill's provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 5 (commencing with Section 2898) is
2 added to Chapter 10 of Part 2 of Division 1 of the Public Utilities
3 Code, to read:

4
5 Article 5. Mobile Telephony Service Telecommunications Device
6 Location Disclosure
7

8 2898. (a) A mobile telephony services provider shall provide
9 call location information relative to a telecommunications device
10 of a user to a requesting law enforcement agency, in order for the
11 law enforcement agency to respond to a call for emergency services
12 or in an emergency situation that involves the risk of death or
13 serious physical harm.

14 (b) Nothing in this section prohibits a mobile telephony services
15 provider from establishing protocol by which the provider may
16 voluntarily disclose call location information.

17 (c) No cause of action shall lie in any court against a mobile
18 telephony services provider, its officers, employees, or agents, for
19 providing call location information relative to a
20 telecommunications device of a user in good faith pursuant to this
21 section.
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23

24 **All matter omitted in this version of the bill**
25 **appears in the bill as introduced in the**
26 **Senate, February 26, 2009. (JR11)**
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